



**STAFF REVIEW AND RECOMMENDATION**

**Variance Case #:** V2015-30                      **Legistar #:** 20150494  
**Board of Zoning Appeals Hearing:**              **Monday, June 29, 2015 – 6:00 p.m.**  
**Property Owner:** Cary Eisen  
309 Heritage Overlook  
Woodstock, GA 30188  
**Address:** 32 Ayers Avenue  
**Land Lot:** 12140    **District:** 16                      **Parcel:** 1230  
**Council Ward:** 1                      **Existing Zoning:** CRC (Community Retail Commercial)

**Special Exception / Special Use / Variance(s) Requested:**

- 1. Variance to reduce the side yard setback from 15’ to 12.3.’ [§708.16 (H)]
- 2. Variance to reduce the rear yard setback from 35’ to 15.8.’ [§708.16 (H)]

**Statement of Fact**

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

**Criteria:**

- 1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
- 2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
- 3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

**PICTURES**



**32 Ayers Avenue**



**32 Ayers Avenue**



**Aerial view of subject property**

**Recommended Action:**

**Approval with a stipulation.** Cary Eison is requesting setback variances in order to expand his catering facility at 32 Ayers Avenue. The property and all surrounding properties are zoned CRC (Community Retail Commercial). This area is characterized by former residences converted to small offices or warehouses – the subject property is only 0.142 acres in size. Chef Cary’s Cuisine LLC has operated at the subject property since 2007.

The applicant wishes to construct a rear addition for the purpose of additional office and kitchen space. The buildable area on the site is very small because of the small size (0.142 acres) of the parcel. The addition proposed by the applicant would leave 15.8’ between the structure and the rear property line and 12.3’ between the south side of the building and the side property line. Since this area likely developed prior to the imposition of setback requirements, many of the nearby structures also encroach upon the setbacks.

The Zoning Ordinance does not have any parking regulations specific to a catering business – the closest being professional office (one space every 350 square feet) and restaurants (one space every 175 square feet). The professional office calculation would likely underestimate the number of

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cars and restaurant parking requirements would overestimate the number of spaces needed. As a result, staff is unable to determine the required number of spaces.

Site visits and aerial images indicate that the front portion of the site is very crowded and parking may be an issue. During a site visit, the parking area between the building and the road contained three cars, a box truck, a van, and a dumpster near the street. The paved area in the front appears capable of holding no more than six or seven vehicles. The dumpster's highly visible location, in addition to being unsightly, further restricts parking on the site. Section 710.08 (3.) does not allow dumpsters to be located in the front yard. The dumpster on site will need to be moved back behind the front building line and screened from public view in order to be in compliance. This will provide additional space for parking on the site.

While the setback encroachments will not adversely affect the surrounding properties or neighborhood, the additional square footage will cause the site to become more crowded. With this in mind, ***staff recommends approval of the setback variances with the stipulation that the dumpster be relocated from the front yard to an area to the side or rear.***



Department of Development Services  
205 Lawrence Street  
Marietta, Georgia 30060  
Brian Binzer, AICP, Director

**APPLICATION FOR VARIANCE OR APPEAL**  
(Owner/Applicant/or Representative must be present at all public hearings)

Application #: V2015-30 Hearing: 6-29-15 Legistar # \_\_\_\_\_

This is a variance/appeal application for:

Board of Zoning Appeals  City Council

Owner's Name Cary Eisen

Address 309 Heritage Overlook Woodstock Ga Zip Code: 30188

Telephone Number: 770-429-0060 Email Address: chefcaryscuisine@mindspiring.com

**COMPLETE ONLY IF APPLICANT IS NOT OWNER:**  
Applicant \_\_\_\_\_  
Address \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone Number \_\_\_\_\_ Email Address: \_\_\_\_\_

Address of property for which a variance or appeal is requested:

32 Ayers Ave. NE Date of Acquisition: \_\_\_\_\_

Land Lot (s) 12140 District 16<sup>th</sup> Parcel 1230 Acreage .16 Zoned CRC Ward 1A FLU CAC

List the variance(s) or appeal requested (please attach any additional information):

Property Set back variance requested. Variance requested on the rear set back variance and right side of Building variance set back if looking from front of building

- Required Information**
1. Application fee (\$250)
  2. Completed notarized application. **The original application must be submitted with ALL original signature(s) – Copies of the application or signature(s) will NOT be accepted.**
  3. Legal description of property.
  4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
  5. Site plan - 25 copies of site plan drawn to scale. Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
  6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.
  7. Documentation authorizing applicant to submit application by property owners if applicant is not owner.

**Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.**

**OVER**



*Chef Cary's Cuisine*  
ATLANTA'S PREMIER CATERER

Friday May 22nd 2015  
Department of Development Services  
205 Lawrence Street  
Marietta, Ga. 30060

To Board of Zoning Appeals,

I Cary Eisen President of Chef Cary's Cuisine LLC. is respectfully requesting a property set back variance on one side of the building and the rear of the building. I bought the building in 2007 employing myself and one other individual with the hopes of growing the business and eventually expanding. I now have 6 full time employees and I am looking to expand the building. My commercial kitchen, storage facility, conference room and office are all too small to keep up with demand. If the set backs will be approved it will allow me to expand the business and continue to work out of this location. If I have to sell the building and move into another location, this will cause a disruption in business, large out of pocket expensive for renovating or bringing up to code another location and additional money will be needed for moving large equipment, phone lines, real estate agents, new mortgages and similar services. Also, my employees live or have moved within a 30 minute radius of my location, having to find a new location could impact my employees as well. Additionally, the add on to the existing building will be done in keeping with the spirit of the existing building and will not create any public safety issues. Thank you for your time in reviewing of this matter. Any other additional information you may need please let me know.

Sincerely,



President  
Cary Eisen

**A Proud Member: National Association of Catering Executives**  
32 Ayers Ave. Marietta, Ga. 30060

PHONE: (770) 429-0060 FAX: (770) 429-0644

Web Site: [www.chefcaryscuisine.com](http://www.chefcaryscuisine.com) E-Mail: [chefcaryscuisine@mindspring.com](mailto:chefcaryscuisine@mindspring.com)

**TO: Marietta Daily Journal**  
**FROM: City of Marietta**  
**RUN DATE: June 9, 2015**

### **PUBLIC NOTICE OF VARIANCES**

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following variance requests. The Board of Zoning Appeals will consider the following requests on **Monday, June 29, 2015 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

**V2015-30 [VARIANCE] CARY EISEN** is requesting variances for property located in Land Lot 12140, District 16, Parcel 1230, 2<sup>nd</sup> Section, Marietta, Cobb County, Georgia and being known as 32 Ayers Avenue. Variance to reduce minimum rear yard setback from 35 ft. to 15.8'; variance to reduce minimum side yard setback from 15 ft. to 12.3.' Ward 5A.

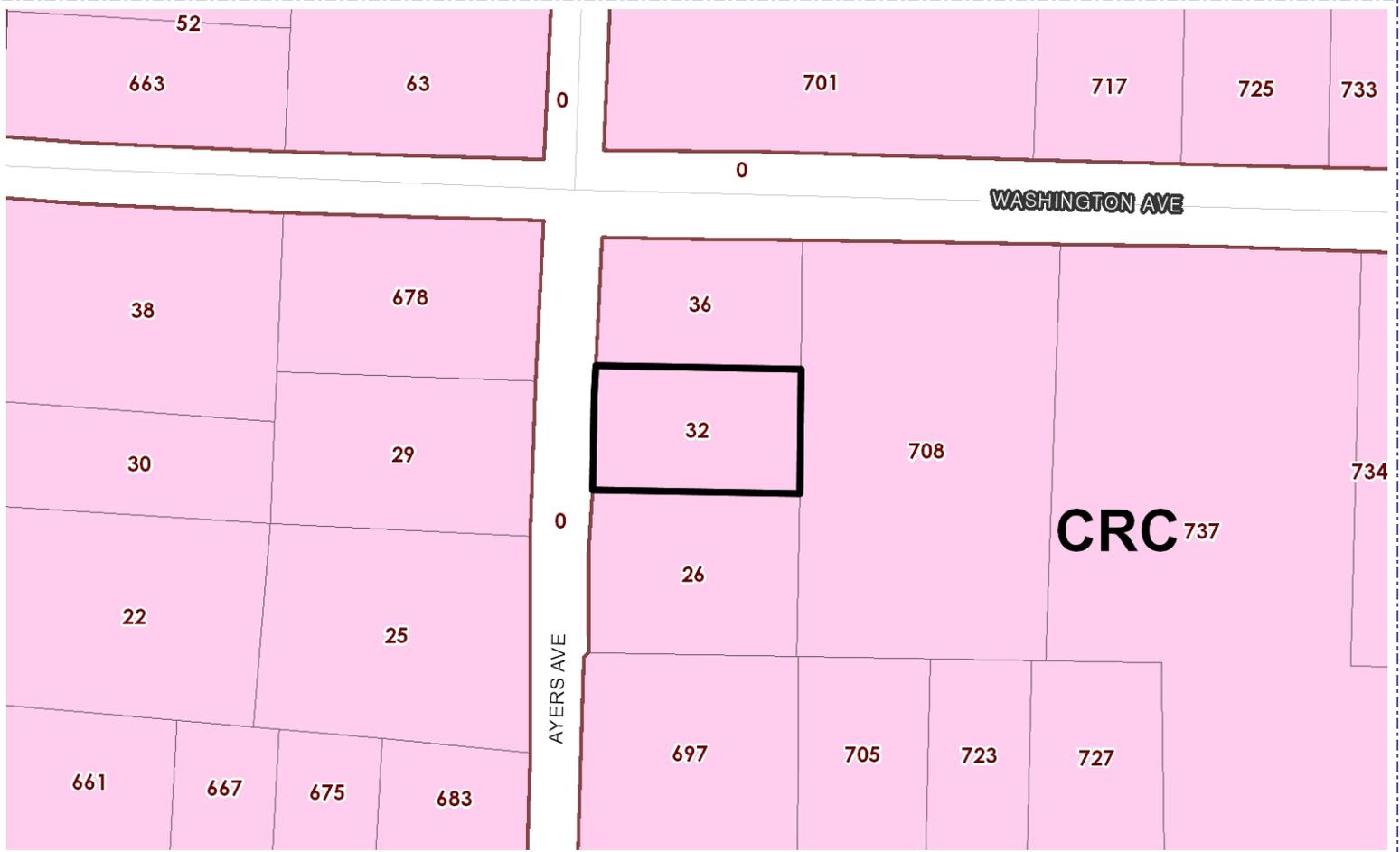
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

For additional information please call the Planning and Zoning Office (770) 794-5669.

**Accessibility to Meetings:** If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call Mr. Patrick Henley, ADA Coordinator, at 770-794-5558 (voice) or 770-794-5560 (TDD) no later than 48 hours before the date of the above meeting.

City of Marietta  
205 Lawrence Street  
Marietta, Georgia 30060

# Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
32 AYERS AVE	16121401230	0.143	1A	CRC	CAC

Property Owner:	Cary Eisen	<b>Zoning Symbols</b> <ul style="list-style-type: none"> <li>--- Railroads</li> <li>--- City Limits</li> <li>--- Cobb County Pockets</li> <li>NA</li> <li>R1 - Single Family Residential (1 unit/acre)</li> <li>R2 - Single Family Residential (2 units/acre)</li> <li>R3 - Single Family Residential (3 units/acre)</li> <li>R4 - Single Family Residential (4 units/acre)</li> <li>RA4 - Single Family Residential - Attached</li> <li>RA6 - Single Family Residential - Attached</li> <li>RA8 - Single Family Residential - Attached</li> <li>MHP - Mobile Home Park</li> <li>PRD-SF - Planned Residential Dev. Single Family</li> <li>RM8 - Multi Family Residential (8 units/acre)</li> <li>RM10 - Multi Family Residential (10 units/acre)</li> <li>RM12 - Multi Family Residential (12 units/acre)</li> <li>RHR - Residential High Rise</li> <li>PRD-MF - Planned Residential Dev Multi Family</li> <li>NRC - Neighborhood Retail Commercial</li> <li>CRC - Community Retail Commercial</li> <li>RRC - Regional Retail Commercial</li> <li>PCD - Planned Commercial Development</li> <li>LI - Light Industrial</li> <li>HI - Heavy Industrial</li> <li>PID - Planned Industrial Development</li> <li>MXD - Mixed Use Development</li> <li>CBD - Central Business District</li> <li>OIT - Office Institutional Transitional</li> <li>LRO - Low Rise Office</li> <li>OI - Office Institutional</li> <li>OS - Office Services</li> <li>OHR - Office High Rise</li> </ul>
Applicant:		
BZA Hearing Date:	06/26/2015	
Acquisition Date:		
Case Number:	V2015-30	
<b>City of Marietta Planning &amp; Zoning</b>		

